

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/884

- Applicants** : Messrs. TANG Kam Tong, TANG Kam Por, TANG Chun Ki and TANG Chun Hon represented by Chief Force Limited
- Site** : Lots 948 S.A ss.1 S.A ss.1, 948 S.A ss.1 S.A ss.2, 948 S.A ss.1 S.A RP, 948 S.A ss.1 S.B, 948 S.A ss.1 S.C, 948 S.A ss.1 S.D, 948 S.A ss.1 S.E, 948 S.A ss.1 S.F, 948 S.A ss.1 RP in D.D. 109 , Tai Kong Po, Kam Tin, Yuen Long, New Territories
- Site Area** : About 624m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9 at the time of submission

Draft Kam Tin North OZP No. S/YL-KTN/10 currently in force
[The zoning and development restrictions for the Site remain unchanged on the current draft OZP No. S/YL-KTN/10]
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Four Houses (New Territories Exempted Houses (NTEHs) – Small Houses)

1. The Proposal

- 1.1 The applicants, who claimed themselves as indigenous villagers of Tai Kong Po¹, seek planning permission to build four NTEHs (Small Houses) on the application site (the Site). The Site falls within an area zoned “AGR” on the Kam Tin North OZP (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ use is a Column 2 use within the “AGR” zone,

¹ According to the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD), the applicants’ eligibilities for Small House grant are yet to be ascertained.

which requires planning permission from the Town Planning Board (the Board).

- 1.2 Details of the applicants and their respective Lot(s) (**Plan A-2a**) are as follows:

House	Applicant	Application Lot(s)
H1	Mr. TANG Kam Tong	Lot 948 S.A ss.1 S.E
H2	Mr. TANG Kam Por	Lots 948 S.A ss.1 S.A ss.1 and 948 S.A ss.1 S.C
H3	Mr. TANG Chun Ki	Lot 948 S.A ss.1 S.D
H4	Mr. TANG Chun Hon	Lot 948 S.A ss.1 S.F

- 1.3 Details of each of the proposed Small Houses are as follows:

Total floor area	:	195.09 m ² (Total 780.36m ²)
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03 m ²

- 1.4 Layout of the four proposed Small Houses including location of the septic tanks is shown on **Drawing A-1**. The applicants indicate that the remaining lots included in the application², i.e. Lots 948 S.A ss.1 RP, 948 S.A ss.1 S.A RP, 948 S.A ss.1 S.A ss2 and 948 S.A ss.1 SB, will be used as gardens and circulation area of the proposed Small Houses.
- 1.5 The Site is the subject of a previous application No. A/YL-KTN/460 submitted by the same applicants for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 6.2.2015. Details of the previous application are set out in paragraph 5 below. Compared with the previous application, the site area / boundary, major development parameters and layouts of the four proposed Small Houses are generally the same as the previous ones.
- 1.6 In support of the application, the applicants have submitted the following documents:

- (a) Application form with attachments received on 5.1.2023 (**Appendix I**)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the application form with attachments at **Appendix I**. They are briefly summarised as follows:

- (a) the applicants are indigenous villagers who are entitled to the construction of Small Houses under the Government's Small House Policy;

² Lots 948 S.A ss.1 RP, 948 S.A ss.1 S.A RP and 948 S.A ss.1 SB are owned by Mr. TANG Chun Ki while Lot 948 S.A ss.1 S.A ss2 is owned by Mr. TANG Kam Por.

- (b) the Site falls within the village “environ” (‘VE’) of Tai Kong Po Tsuen and there is a cluster of Small Houses in the vicinity. Approval of the application would not induce adverse environmental and sewerage impacts, and cause fire safety concern to the surrounding area; and
- (c) the Site is the subject of a previous application (No. A/YL-KTN/460) approved by the Committee in 2015. Nevertheless, the planning permission was lapsed in February 2023 as their Small House grant applications were still being processed by LandsD, hence a fresh application is submitted by the applicants.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and has been revised several times subsequently. The latest set of Interim Criteria, promulgated on 7.9.2007, is at **Appendix II**.

5. Background

The Site is currently not subject to any active planning enforcement action.

6. Previous Application

- 6.1 The Site is the subject of application No. A/YL-KTN/460 for proposed four NTEHs (Small Houses) which was approved by the Committee on 6.2.2015, mainly on sympathetic consideration that the proposal was in line with the Interim Criteria in that the Site and footprints of the proposed Small Houses fell within the ‘VE’ of Tai Kong Po and there was no “V” zone for Tai Kong Po to meet the Small House demand; the proposed Small House developments were considered not incompatible with the surrounding area of rural landscape character; and possible adverse impacts were not anticipated. Subsequently, a s.16A application No. A/YL-KTN/460-1 for extension of time limit for commencement of the approved development was approved by the Director of Planning under the delegated authority of the Board in November 2018. The above planning permission lapsed on 6.2.2023 as the relevant Small House grant applications are still being processed by DLO/YL, LandsD. Compared with the last approved application, the current application submitted by the same applicants are generally the same in terms of the site area / boundary, major development parameters and layouts of the four proposed Small Houses.

- 6.2 Details of the previous application are summarized at **Appendix III** and the location is shown on **Plan A-2a**.

7. Similar Applications

- 7.1 There are 21 similar applications, involving 18 sites, for Small House development within the same “AGR” zone and the ‘VE’ of Tai Kong Po Tsuen in the vicinity of the Site since the first promulgation of the Interim Criteria in November 2000.
- 7.2 19 applications were approved by the Committee between January 2005 and August 2018 mainly for the reasons that the developments fell within the ‘VE’ of Tai Kong Po and there was no “V” zone for Tai Kong Po to meet the Small House demand of the villagers thus sympathetic consideration could be given under the Interim Criteria; the proposed developments were not incompatible with the surrounding rural environment where existing village house developments could be found; and there was in general no adverse comment from relevant departments consulted including the Director of Agriculture, Fisheries and Conservation (DAFC). Though DAFC did not favour some applications (No. A/YL-KTN/217, 297, 298, 460 and 589) as agricultural activities in the vicinity of the sites concerned were still active, it was noted that there was no agricultural activity on the sites concerned and the proposed NTEHs were considered compatible with the surrounding village settlement of Tai Kong Po.
- 7.3 Applications No. A/YL-KTN/228 and 387 were rejected by the Committee in June 2005 and August 2012 respectively mainly on the grounds that the proposed developments did not meet the Interim Criteria in that the site fell outside the “Village Type Development” (“V”) zone; land was available within the “V” zone for meeting the outstanding Small House applications and Small House demand; and there was no information to demonstrate why suitable sites within the “V” zone could not be made available for the proposed developments. Nevertheless, the site under Application No. A/YL-KTN/228 was subsequently approved for Small House development by the Committee in May 2011 under applications No. A/YL-KTN/358 to 361 as LandsD advised that Tai Kong Po is a post-1898 recognized village of which Small House applications must be processed within the ‘VE’ of Tai Kong Po. Besides, similar applications within the ‘VE’ of Tai Kong Po had been approved by the Committee in recent years.
- 7.4 Details of the similar applications are summarized in **Appendix III** and the locations are shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-1 to A-3)

- 8.1 The Site is:
- (a) partly paved and used for parking of vehicles and partly covered by vegetation;
 - (b) located within the ‘VE’ of Tai Kong Po; and

- (c) accessible via Kong Tai Road.

8.2 The surrounding areas have the following characteristics:

- (a) the Site is situated in a rural inland plains landscape character comprising vacant land, village houses, temporary structures and scattered tree groups;
- (b) to the east is the village proper of Tai Kong Po (**Plan A-2a**); and
- (c) a number of Small House developments approved by the Committee could be found in the vicinity of the Site (**Plans A-1 and A-2a**).

9. **Planning Intention**

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

10. **Comments from Relevant Government Departments**

10.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Site - Footprints of the proposed Small Houses	- -	100% 100%	- The Site and the footprints of each of the four proposed Small Houses fall entirely within “AGR” zone.
2.	Within ‘VE’? - The Site - Footprints of the proposed Small Houses	100% 100%	- -	- The DLO/YL of LandsD advises that the Site and the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Tai Kong Po (Plan A-2a).
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	- Land required to meet the Small House demand in Tai Kong Po Tsuen: about 0.45ha (equivalent to 18 Small House sites). The number of outstanding Small House applications for Tai Kong Po is 8 while the 10-year Small House

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>demand forecast for the same village is 10³.</p>
	Sufficient land in “V” zone to meet outstanding Small House application?		✓	<ul style="list-style-type: none"> - Although there is a “V” zone covering the nearby Cheung Kong Tsuen to meet the Small House demand of Cheung Kong Tsuen and Tai Kong Po, DLO/YL of LandsD advises that Tai Kong Po is a post-1898 recognized village and under the existing Small House policy, cross-village Small House applications would not be considered. The indigenous villagers of Tai Kong Po can only build their Small Houses on land falling within the ‘VE’ of Tai Kong Po. - No “V” zone to meet 10-year SH demand.
4.	Compatible with the planning intention of “AGR” zone?		✓	<ul style="list-style-type: none"> - The Director of Agriculture, Fisheries and Conservation (DAFC) states that the Site is currently occupied by some structures but agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water sources are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. He does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		<ul style="list-style-type: none"> - The proposed Small Houses are not incompatible with the surrounding areas which are predominantly rural in character comprising residential structures/ dwellings, chicken shed, parking of vehicles, open storage/ storage yards and vacant land.
6.	Within Water Gathering Ground?		✓	

³ The figure is provided by the Pat Heung Rural Committee in response to DLO/YL of LandsD’s enquiry and DLO/YL of LandsD is unable to verify such information.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and Emergency Vehicular Access (EVA)?		✓	<ul style="list-style-type: none"> - The Director of Fire Services (D of FS) has no objection in-principle to the application. The applicants are reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) advises that Small House developments should be confined within the "V" zone as far as possible but given that the application only involves construction of four Small Houses, the application could be tolerated.
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) has no objection in-principle from public drainage point of view. - An approval condition on the submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - The Director of Environment Protection (DEP) considers that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscape impact?		✓	<ul style="list-style-type: none"> - The Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/ UD&L of PlanD) has no objection to the application from landscape planning perspective. Significant adverse landscape impact arising from the proposed development is not anticipated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objections conveyed by DO(YL)?		✓	- The District Officer (Yuen Long), Home Affairs Department (DO(YL) of HAD) advises that no local objection to the application has been received.

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Detailed comments are at **Appendix IV**.

- (a) DLO/YL, LandsD;
- (b) DEP;
- (c) CTP/UD&L, PlanD;
- (d) C for T;
- (e) D of FS;
- (f) CE/MN, DSD;
- (g) DAFC; and
- (h) DO(YL), HAD.

10.3 The following government departments have no comment on / no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (c) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (d) Commissioner of Police (C of P); and
- (e) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD).

11. Public Comment Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds that the proposed development will bring about adverse traffic impact and traffic congestion to the nearby roads.

12. Planning Considerations and Assessments

12.1 The application is for four proposed four Small Houses on respective lots at the Site, which fall entirely within the “AGR” zone on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone which is set out in paragraph 8 above. DAFC does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation.

12.2 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small

Houses fall entirely within the ‘VE’ of Tai Kong Po (**Plan A-2a**). According to DLO/YL of LandsD, the total number of outstanding Small House applications for Tai Kong Po is 8 while the 10-year Small House demand forecast is 10. Whilst a “V” zone at Cheung Kong Tsuen has been drawn up on the OZP (**Plan A-1**) to serve the said villages and Tai Kong Po, DLO/YL of LandsD advises that as Tai Kong Po is a post-1898 recognized village and according to the prevailing Small House policy, the indigenous villagers can only apply for Small House within the ‘VE’ of Tai Kong Po and cross-village Small House application submitted by the villagers of Tai Kong Po would not be considered. In this regard, the application meets the Interim Criteria as the Site is located entirely within the ‘VE’ of Tai Kong Po and there is no “V” zone for Tai Kong Po to meet the outstanding Small House applications and 10-year Small House demand forecast, which is estimated to be 18 in total (about 0.45ha) according to DLO/YL of LandsD. Besides, DLO/YL of LandsD has no adverse comment on the application. In addition, planning permission was granted by the Committee with conditions for the previous application (No. A/YL-KTN/460) submitted by the same applicants on 6.2.2015 with EOT approved on 29.11.2018. However, the planning permission lapsed on 7.2.2023. The approved Small Houses development thereat has not commenced mainly because the Small House grant is still under processing by DLO/YL of LandsD. Noting that there has been no major change in planning circumstances since approval of the previous application, sympathetic consideration may be given to the current application.

- 12.3 Although the proposed Small House development is not in line with the planning intention of the “AGR” zone, the Site is surrounded by a village cluster developed with village houses / rural dwellings / structures surrounding the Site (**Plans A-2a** and **A-3**). The proposed Small Houses are not incompatible with the surrounding area of rural landscape character dominated by village houses, chicken shed, storage / open storage yards and vacant land. As significant adverse landscape impact arising from the proposed development is not anticipated, CTP/UD&L of PlanD has no objection to the application from the landscape planning point of view. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the application involves construction of four Small Houses only, the application could be tolerated from traffic perspective. Other relevant government departments consulted including DEP, CE/MN of DSD and FSD have no objection to or no adverse comment on the application.
- 12.4 The Site is the subject of a previous application (No. A/YL-KTN/460) submitted by the same applicants for the same use which was approved by the Committee in February 2015. As the Small House grant applications still have not approved by LandsD and the proposed development could not commence within the specified period, a fresh planning application was submitted by the applicants. There are 19 similar applications for Small House developments within the ‘VE’ of Tai Kong Po (**Plan A-1**) approved by the Committee in recent years, mainly between 2005 and 2018 for reasons as stated in paragraph 7 above. Approval of the current application is in line with the Committee’s previous decisions.
- 12.5 Regarding the public comment as stated in paragraph 11 above, the departmental comments and planning considerations and assessments as stated above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 3.3.2027, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval condition

- the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:
- the proposed development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for the rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with attachments received on 5.1.2023
Appendix II	Extract of relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small

	House in New Territories
Appendix III	Previous and similar applications
Appendix IV	Detailed comments of relevant government departments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within the “V” zone
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MARCH 2023**